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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of:

Closed Captioning and Video Description of  
Video Programming

MM Docket No: 95-176

COMMENTS OF THE CEDAR RAPIDS TELEVISION COMPANY (KCRG-TV)

February 19, 1998

The Cedar Rapids Television Company (CRTV) is the licensee of KCRG-TV, the ABC affiliate in Cedar Rapids, Iowa. (KCRG) KCRG-TV was one of the first television stations in the state of Iowa to provide captioning of television newscasts. We originated captioning in 1987 using the ENR (electronic news computer) teleprompter method. We continue to use the ENR method today to provide news captioning to the hearing impaired of our market.

KCRG-TV is located in the Cedar Rapids-Waterloo-Dubuque television DMA, market 86 according to the A.C. Nielsen ratings service. We provide newscasts seven days per week. Monday through Friday we produce 90 minutes of local news from 5:30 to 7:00 a.m., 11:30 to 12:00 p.m., 5:00 to 5:30 p.m., 6:00 to 6:30 p.m., and from 10:00 to 10:35 p.m. On Saturday we produce local news from 6:00 to 9:00 a.m., from 5:30 to 6:00 p.m., and 10:00 to 10:35 p.m. On Sunday we produce local news from 6:00 to 8:00 a.m., 5:30 to 6:00 p.m., and 10:00 to 10:35 p.m. This equates to 1274 hours of local news broadcasts per year. It does not take into account the station's locally produced public affairs and other news programming, which could easily add several hundred more hours of programming subject to the real-time captioning rule.

If real time captioning were to be required, the expense to this station would be somewhere between \$152,880 per year and \$3,180,000 per year. These figures are based upon the Commission's own estimates of the cost of real-time news captioning of between \$120 and \$2,500 per hour. They take into account only real-time news captioning. The NAB's Financial Profile of Television Stations by Network Affiliation for the period 1991-1995, published in 1996, shows that the pre-tax profit of ABC affiliates in Markets 51-75 averages \$2,212,000. For CBS affiliates the figure is \$2,840,000, Fox affiliates 1,899,000, and NBC affiliates \$3,579,000. Therefore, compliance with a rule requiring real-time captioning of newscasts could result in an expense *which exceeds the average pre-tax profit of ABC, CBS, and Fox affiliates in markets 51-75.*

Faced with the onerous expense of such a rule, most stations would be forced to reduce or eliminate local news broadcasts. This would result in a devastating loss of service to the viewing public.

The preceding expense estimate does not take into account live, on the scene news and weather coverage. Again, the onerous cost of real-time, live captioning would most

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likely require most medium and small broadcasters to reduce or eliminate live, on the scene news and weather coverage. The devastating financial burden of such a proposed rule can lead to only one conclusion. At the minimum, the Commission should exempt live, real-time news and weather coverage from mandatory real-time captioning requirements. While the ENR solution may not be ideal, it represents a reasonable compromise between the needs of the hearing-impaired community, the viewing public as a whole, and broadcasters. Broadcasters must be financially viable to provide service to the public.

KCRG-TV provides closed captions of the weather segment of its local news using the ENR method. However, the captioning is not verbatim, it is a summary of what the weathercaster is saying. We have chosen this method because real-time, verbatim captioning of local weathercasts imposes an impossible financial burden for a station in our size market. We believe that any regulatory or legislative requirement for verbatim, real-time captioning of local weathercasts represents an unconstitutional infringement upon our right of free speech. Broadcasters have an obligation to provide weather information to the public. However, the government does not have the right to decree the specific form and content of the weather information which information is conveyed. The matter of deciding what information to present, what the content shall be, and how it is presented is a right protected by the First Amendment to the United States Constitution.

We disagree with the Commission's assertion that "weather information can be scripted." Weather information changes dynamically and is usually updated up to the last minute before it goes on the air. Scripting would require a station to shut down its weather information gathering system to allow sufficient time to write the script. By the time the weather information was presented, the weather information would be inaccurate.

Weather information that is inaccurate or out-of-date represents a danger to the viewing public. Scripting for the purpose of closed captioning would result in less accurate, less timely information being presented to the public. As previously demonstrated the devastating financial impact of a real-time captioning requirement would result in reduction or elimination of live, on the scene weather coverage. This would not serve the best interests of the viewing public as a whole or the hearing impaired community.

KCRG-TV broadcasts information about severe weather using a system called "First Alert," and has used this system for many years. "First Alert" uses a computer to continuously scan incoming severe weather advisories from the National Weather Service (NWS.) The NWS transmits character strings that identify the data which follows as severe weather information. The system then samples the data for the names of counties and cities affected by the severe weather advisory. It compares these names to an internal table, and then alerts station operators that there are counties for which the station may wish to broadcast an NWS emergency announcement. The "First Alert" system software also determines the beginning and end time of each severe weather alert.

If the "First Alert" system determines a severe weather announcement pertains to the station's coverage area, it generates a map of the DMA, and colors the affected

counties according to a legend which is displayed on the television viewer's screen. For instance, a tornado warning might result in an affected county being displayed in red, a thunderstorm warning in green, and so on.

The system also generates a video crawl displayed along with the map in the lower third portion of the screen. The content of the crawl is the exact text of the severe weather announcement as transmitted from the National Weather Service. For instance, the text might begin: "The National Weather Service has issued a severe weather warning for the following counties in the KCRG-TV viewing area: (names of counties follow.) The NWS announcements usually include advice on how to cope with the warning according to its severity.

"First Alert" information is available to *the entire* viewing public. It is clear, simple, easily understood, creates severe weather messages without delay, and is economical to operate. The cost is somewhat less than \$50,000. There are several competing systems of this type available as well. It conveys the *exact* text of severe weather announcements from the national weather service or the local station. It must be pointed out, however, that severe weather announcements are not automatically placed on the air. The station's master control operator receives an electronic alert that there is a severe weather announcement. A person designated by the station to make *editorial decisions* decides whether the severe weather announcement will be aired, for how long, and in what form.

"First Alert" and its counterparts represent an innovative way broadcasters are using today to convey severe weather information to *all* of their viewers, including the hearing impaired community. The Commission's proposed rule to require real-time, verbatim captioning of regular and severe weather information ignores innovative systems like this and results in a government decree that weather information must be conveyed in a particular manner i.e. real-time captioning.

KCRG-TV uses a similar system with its news room computer to generate school closings, road condition reports, and other announcements of public importance. It displays text, full screen, using an electronic character generator. For instance, the text for a school closing might read: "Cedar Rapids schools.... Two hours late." Again, this full-screen display of information is clear, simple, and available to the *entire* viewing public, including the hearing impaired community.

The Commission has suggested that the cost of real-time captioning news and weather information 24 hours per day could exceed \$1,310,000 per year. Using the Commission's own figures, we believe the expense could be exceed \$3,000,00 per year for a station which does extensive local news and weather programming. This expense would *exceed* the entire news budget for a station the size of KCRG-TV or similar stations in markets of our size. For many smaller stations, the extra expense would result in bankruptcy. Simply put the unintended consequence of the proposed real-time news and weather captioning rule would be to deprive the viewing public as a whole of news coverage. Indeed, the financial burden might deprive the viewing public of its local television station. The Commission, itself, suggests that up to 78% of affected television entities could be classified as "small broadcasters," with revenues insufficient to comply with the proposed rules. It is not in the public interest to create a rule that threatens to

bankrupt 78% of the television stations in the United States. Furthermore, broadcasters are presently required to build and operated digital television stations no later than 2002. They are faced with the burden of financing creation of an entirely new system of television broadcasting, even though there are presently no digital TV receivers in existence. The additional financial burden of the proposed real-time news and weather captioning rules might be enough to financially ruin all but the largest broadcasters.

The Commission presently allows video program providers to use methods other than captioning such as visual crawls, open captioning, slides, full screen video displays, etc., to ensure that details of emergency information programs are fully accessible to viewers with hearing disabilities. We believe the innovative systems we have described in these comments represent a sample of the alternative means meeting the needs of the hearing impaired without imposition of a harsh, unnecessary, and unconstitutional regulatory burden.

The Commission suggests that it could provide a means by which entities could petition for special relief. However, those of use who are familiar with the waiver process know it is slow, burdensome, and expensive. Indeed, the length of time necessary to file, process, and rule on a petition for special relief would most likely be so long that many small entities would be out of business before the Commission ruled on their request. We suggest that it is much better to promulgate a rule which is fair to broadcasters and the hearing impaired community than it is to create a flood of waiver requests submitted to the FCC.

Many of those who propose government mandated real-time news captioning have a great financial interest in such a rule. They are in the business of providing closed captioning services. Indeed, some commenting entities are the owners of the patents, software, and copyrights that comprise the closed captioning system. A government mandated real-time news and weather-captioning rule will create a bonanza of payments to the owners and operators of captioning services.

CRTV believes allowing broadcasters to use captioning or alternative means to reach the hearing impaired with news, weather, and severe event information is the fair, correct, and only practical way to deal with the issue of real-time captioning of news and emergency weather information. Furthermore, the Commission should exempt live news, weather, and sports coverage from real-time captioning requirements due to the devastating financial burden such a rule would create.

Very truly yours,  
KCRG-TV

/s/ Robert G. Allen

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